

FISCAL REQUIREMENTS



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FISCAL REQUIREMENTS

To ensure that Title I, Part A funds are used to provide services that are in addition to the regular services normally provided by an LEA for participating children, three fiscal requirements related to the expenditure of regular State and local funds must be met by the LEA. An LEA must--

- (1) Maintain State and local effort;
- (2) Provide services in project areas with State and local funds that are at least comparable to services provided in areas not receiving Part A services; and
- (3) Use Part A funds to supplement, not supplant regular non-Federal funds.

MAINTENANCE OF EFFORT

- An LEA may receive its full allocation of Part A funds for any fiscal year only if the SEA determines that the LEA has maintained its fiscal effort in accordance with section 14501 of the ESEA.

Requirement: Section 14501 provides that an LEA may receive funds under a covered program (Title I, Part A is a covered program) for any fiscal year only if the SEA finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

Failure to Meet the Requirement: The SEA shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which an LEA fails to maintain effort by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the LEA).

For a year in which effort was not maintained, the lesser amount shall not be used for computing maintenance of effort in subsequent years.

Waiver: The Secretary may waive the maintenance of effort requirements if he determines that such a waiver would be equitable due to--

- ◆ exceptional or uncontrollable circumstances such as a natural disaster;
or
- ◆ a precipitous decline in the financial resources of the LEA.

Section 200.64 of the Title I regulations defines several terms applicable to calculating maintenance of effort.

Expenditures to be included

In determining whether an LEA has maintained fiscal effort, the SEA must consider the LEA's expenditures from State and local funds for free public education. Those expenditures include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

Expenditures to be excluded

Expenditures for community services, capital outlay, and debt service are not to be included in the determination. In addition, expenditures made from funds provided by the Federal Government for which the LEA is required to account to the Federal Government directly or through the SEA are excluded from the determination.

"Preceding fiscal year"

For purposes of determining maintenance of effort, the "preceding fiscal year" is the Federal fiscal year or the 12-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

[NOTE: The Department will be issuing regulations for Title XIV which includes the maintenance of effort requirements. Once published, the Title I maintenance of effort regulations will be repealed.]

EXAMPLE:

For funds first made available on July 1, 1995, if a State is using the Federal fiscal year, the "preceding fiscal year" is Federal fiscal year 1994 (which began on October 1, 1993) and the "second preceding fiscal year" is Federal fiscal year 1993 (which began on October 1, 1992).

If a State is using a fiscal year that begins on July 1, 1995, the "preceding fiscal year" is the 12-month period ending on June 30, 1994, and the "second preceding fiscal year" is the period ending on June 30, 1993.

Funds First Available	Preceding Fiscal Year Year	Second Preceding Fiscal Year
July 1, 1996	1995 (1994-95)	1994 (1993-94)
July 1, 1997	1996 (1995-96)	1995 (1994-95)
July 1, 1998	1997 (1996-97)	1996 (1995-96)
July 1, 1999	1998 (1997-98)	1997 (1996-97)
July 1, 2000	1999 (1998-99)	1998 (1997-98)

Failure to maintain effort

If in the preceding year an LEA failed to spend at least 90 percent of what it spent in the second preceding year, the SEA must reduce the LEA's Part A allocation proportionate to the LEA's failure to maintain effort.

EXAMPLE:

If, during the preceding year, the LEA needed to spend \$900,000 to meet the 90 percent level but only spent \$850,000, the LEA failed to meet the 90 percent level by \$50,000. Therefore, unless the Secretary grants a waiver, the SEA must reduce the LEA's allocation by 5.6 percent ($\$50,000 \div \$900,000 = 5.6\%$)

In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the LEA failed to maintain effort, the SEA must consider the LEA's expenditures in the year the failure occurred to be no less than 90 percent of the expenditures for the third preceding year.

EXAMPLE: (This example is based on an LEA with expenditures of \$1,000,000 in FY 94, \$850,000 in FY 95, \$810,000 in FY 96, \$800,000 in FY 1997, and \$700,000 in FY 1998.)

	1	2	3	4
Program/ Grant Year	Expenditures first preceding year	Expenditures second preceding year	Level required to meet the requirement (90% of column 2)	Reduction in LEA allocation
1996-97 (FY 97)	\$850,000 (FY95)	\$1,000,000 (FY 94)	\$900,000	5.6% of LEA's allocation (\$50,000/ \$900,000)
1997-98 (FY 98)	\$810,000 (FY 96)	\$900,000 90% of FY 94 i.e., 3rd preceding year-instead of FY 95	\$810,000	No reduction to FY 98 grant
1998-99 (FY 99)	\$800,000 (FY 97)	\$810,000 (FY 96)	\$729,000	No reduction to FY 99 grant
1999- 2000 (FY 00)	\$700,000 (FY 98)	\$800,000 (FY 97)	\$720,000	2.8% of LEA's FY 2000 allocation (\$20,000/ \$720,000)

COMPARABILITY

- An LEA may receive Part A funds only if it uses State and local funds to provide services in Part A schools that are at least comparable to the services provided in schools that are not receiving Part A funds. If the LEA serves all of its schools with

Part A funds, the LEA must use State and local funds to provide services that are substantially comparable in each Part A school.

An LEA may determine comparability on a districtwide basis or on a grade-span basis.

- Even if all schools in the LEA or in a grade span grouping are served, the LEA must demonstrate that it will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

For example, the LEA, in order to establish a comparison to determine that services are "substantially comparable," may calculate ratios for the group of schools serving program areas with the lowest percentage of children from low-income families. The ratio for each of the other program schools would then be compared with the average calculated for the comparison group of program schools.

- Although there is no limitation on the number of grade spans an LEA may use, the number should match the basic organization of schools in the LEA. For example, if the LEA's organization includes elementary, middle, and senior high schools, the LEA would have three grade spans.
- If there is a significant difference in the enrollments of schools within a grade span--for example, the largest school in the grade span has an enrollment that is two times the enrollment of the smallest school in the grade span--the LEA may divide grade spans into a large school group and a small school group.
- The comparability requirement does not apply to an LEA that does not have more than one building for each grade span. An LEA may also exclude schools with 100 or fewer students from its comparability determinations.
- An LEA shall be considered to have met the comparability requirement if the LEA files with the SEA a written assurance that it has established and implemented a--
 - ◆ Districtwide salary schedule;
 - ◆ Policy to ensure equivalence among schools in teachers, administrators, and other staff; and
 - ◆ Policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies;

In the alternative, an LEA may meet the comparability requirement if it establishes and implements other measures for determining compliance such as student/instructional staff ratios or student/instructional staff salary ratios. For example, an LEA may--

A) Compare the average number of students per instructional staff in each Part A school with the average number of students per instructional staff in schools not participating in Part A programs. A Part A school is comparable if its average does not exceed 110 percent of the average of schools not participating in Part A programs.

B) Compare the average instructional staff salary expenditure per student in each program school with the average instructional staff salary expenditure per student in schools not participating under Part A. A Part A school is comparable if its average is at least 90 percent of the average of schools not participating in Part A programs.

- ◆ Staff salary differentials for years of employment **shall not be included** in comparability determinations.
- ◆ An LEA need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services.

Records: If the LEA files a written assurance that it has established and implemented a districtwide salary schedule and policies to ensure equivalence among schools in staffing and in the provision of materials and supplies, it must keep records to document that the salary schedule and policies were implemented and that equivalence was achieved among schools in staffing, materials, and supplies. If the LEA established and implemented other measures for determining compliance with comparability such as student/instructional staff ratios, it must maintain source documentation to support the calculations and documentation to demonstrate that any needed adjustment to staff assignments were made.

Developing Procedures for Compliance

- An LEA must develop procedures for compliance with the comparability requirement and implement those procedures annually. An LEA is only required to document compliance with the comparability requirement biennially (every two years).

Determining Compliance

- When determining compliance for comparability, an LEA may exclude State and local funds expended for--
 - ◆ Bilingual education for LEP children; and
 - ◆ Excess costs of providing services to children with disabilities as determined by the LEA.

Note: Title I no longer permits any exclusion of supplemental State or local funds from the Title I comparability requirement.

SUPPLEMENT, NOT SUPPLANT

An LEA may use Title I funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of Title I funds, be made available from non-Federal sources for the education of children participating in Title I programs. In no case may Title I funds be used to supplant--take the place of--funds from non-Federal sources. To meet this requirement, an LEA is not required to provide Title I services using a particular instructional method or in a particular instructional setting.

Program Designs

There are several types of programs that meet the supplement, not supplant requirement. As provided in the statute and also highlighted in the schoolwide and targeted assistance school sections of this guidance, schools are to use effective instructional strategies that give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer programs, and minimize removing children from the regular classroom during regular school hours for Title I services. LEAs, in turn, should provide as much assistance as possible to schools to facilitate these types of instructional strategies. The Targeted Assistance Schools chapter of this guidance contains a variety examples of these strategies.

Exclusion of Supplemental State and Local Program Funds from the Supplement, not Supplant Requirement

When determining whether Title I funding is supplemental, an SEA or LEA may exclude State and local funds expended in any **eligible** school or school attendance area for carrying out a program that meets the schoolwide programs requirements of section 1114 or targeted assistance schools requirements of section 1115.

A program meets the requirements of section 1114 if it is--

- ◆ implemented in a school that meets the Title I schoolwide program poverty thresholds--60% in 1995-96; 50% in subsequent years;
- ◆ is designed to upgrade the entire educational program in the school to enable all children to meet the State's challenging student performance standards;
- ◆ is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's student performance standards; and

- ◆ uses the State's system of assessment to review the effectiveness of the program.

A program meets the requirements of section 1115 if it--

- ◆ serves only children who are failing, or most at risk of failing, to meet the State's student performance standards;
- ◆ provides supplementary services designed to meet the special educational needs of children who are participating in the program to enable those children to meet the State's student performance standards; and
- ◆ uses the State's system of assessment to review the effectiveness of the program.

Although past authorizations required approval, neither a State nor an LEA needs to apply for approval to exclude State or local funds under the Title I of the ESEA.

Note: At the end of this chapter is a Memorandum to Chief State School Officers that the Department issued on July 21, 1995 that explains the differences between Chapter 1 and Title I with respect to the supplement, not supplant exclusion and also relays the Department's position regarding meeting the new requirement in the 1995-96 school year.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

July 21, 1995

MEMORANDUM TO CHIEF STATE SCHOOL OFFICERS

Re: Exclusion of supplemental State and local programs from
the Title I supplement, not supplant requirement

I am writing to provide guidance regarding the provision in section 1120A(b)(1)(B) of Title I of the Elementary and Secondary Education Act (ESEA) that permits, in certain circumstances, the exclusion of supplemental State and local funds from determinations under the supplement, not supplant requirement. Guidance is needed because this provision differs in several significant respects from the predecessor provision in section 1018(d) of Chapter 1 of Title I of the ESEA.

In general, under section 1120A(b)(1)(A) of Title I, a State or local educational agency (LEA) must use funds provided under Title I only to supplement the amount of funds that would, in the absence of the Title I funds, be made available from non-Federal sources for the education of children participating in Title I programs. A State or LEA may not use Title I funds to supplant non-Federal funds. Section 1120A(b)(1)(B) of Title I provides certain flexibility in implementing this requirement. It states: "For the purpose of complying with subparagraph (A) [the supplement, not supplant requirement], a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115."

Section 200.63(c) of the Title I regulations published on July 3, 1995 (60 FR 34800) provides flexibility in determining whether State or local programs meet the requirements of section 1114 or 1115. A program meets the requirements of section 1114 if it is implemented in a school that meets the Title I schoolwide poverty thresholds (i.e., 60% poverty in 1995-96; 50% poverty in subsequent years); is designed to upgrade the entire educational program in the school to enable all children to meet the State's challenging student performance standards; is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's student performance standards; and uses the State's system of assessment to review the effectiveness of the program. A program meets the requirements of section 1115 if it serves only children who are failing, or most at risk of failing, to meet the State's student performance standards; provides supplementary services designed to meet the special educational needs of children who are participating in the

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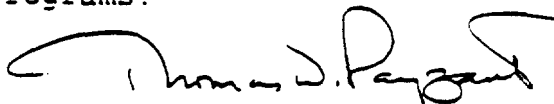
program to enable those children to meet the State's student performance standards, and uses the State's system of assessment to review the effectiveness of the program. Unlike under section 1018(d) of Chapter 1, a State does not need to apply to the Secretary for approval to exclude State funds, nor does an LEA need to apply to the State for approval to exclude State or local funds.

In order to ensure that high-poverty schools receive sufficient resources to make a difference in the success of their children in meeting the State's standards, section 1120A(b)(1)(B) of Title I does not permit as broad an exclusion from the supplement, not supplant requirement as did section 1018(d) of Chapter 1. Under section 1120A(b)(1)(B), a State or LEA may only exclude from supplement, not supplant determinations supplemental State and local funds expended in Title I eligible school attendance areas or schools. This provision thus enables an LEA with eligible but unserved Title I schools to concentrate its supplemental State and local funds in those schools while using Title I funds in its higher-poverty schools. However, an LEA may no longer concentrate supplemental State and local funds in ineligible Title I schools without also providing Title I eligible schools their fair share of those funds. In addition, section 1120A does not permit any exclusion of supplemental State or local funds from the Title I comparability requirement.

We recognize that, for some States and LEAs, it may be very difficult to implement section 1120A(b)(1)(B) in time for the 1995-96 school year, given that final regulations clarifying the provision were not published until July 3 while many local staffing, budget, and programmatic decisions had to be made last spring. Adequate time may be needed to shift State and local resources, staff, and programs. Moreover, in some instances, State or local laws may need to be modified. Therefore, in enforcing this provision for the 1995-96 school year, the Department will take into account the difficult circumstances and dislocation that States and LEAs face in meeting this requirement. At the same time, the Department cannot authorize total disregard for the new provision. There may be situations in which an LEA can make appropriate changes promptly without great dislocation and thus comply fully with the new requirement by the beginning of the 1995-96 school year. Moreover, an LEA that has already made changes to comply with section 1120A should not revert to its prior practices under Chapter 1.

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Please disseminate the guidance in this memorandum to the LEAs in your State. If you have any questions about the guidance, do not hesitate to contact me or Mary Jean LeTendre, Director of Compensatory Education Programs.

A handwritten signature in black ink, appearing to read "Thomas W. Payzant". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Thomas W. Payzant

cc: State Title I Coordinators

APPENDIX

Title I - Amendments to the Elementary and Secondary Education Act of 1965 (Public Law 103-382)

Title XIV - General Provisions (Public Law 103-382)

Title I Regulations

**IMPROVING AMERICA'S SCHOOLS
ACT OF 1994**

Public Law 103-382
103d Congress

An Act

Oct. 20, 1994
[H.R. 6]

To extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving America's Schools Act of 1994".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

TITLE III—AMENDMENTS TO OTHER ACTS

TITLE IV—NATIONAL EDUCATION STATISTICS

TITLE V—MISCELLANEOUS

SEC. 3. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATES.—

(1) TITLE I.—

(A) Title I and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965, as amended by this Act, and to programs under such Act that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

(B) Title VIII of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act, shall take effect on the date of the enactment of this Act.

(2) TITLE II.—Title II of this Act and the amendments made by title II of this Act shall take effect on the date of enactment of this Act, except that section 236 (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(3) TITLE III.—(A) Parts A and B of title III of this Act and the amendments made by such parts shall take effect on July 1, 1995.

(B) Part C of title III of this Act and the amendments made by such part shall take effect on October 1, 1994.

(b) TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as such Act was in effect on the day preceding the date of enactment of this Act, may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act.

20 USC 1411
note.

20 USC 236
note.

20 USC 6301
note.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended to read as follows:

"SECTION 1. TABLE OF CONTENTS.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

20 USC 6301
note.

"TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

20 USC 6301.

"(a) STATEMENT OF POLICY.—

"(1) IN GENERAL.—The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

"(2) ADDITIONAL POLICY.—The Congress further declares it to be the policy of the United States to expand the program authorized by this title over the fiscal years 1996 through 1999 by increasing funding for this title by at least \$750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

"(b) RECOGNITION OF NEED.—The Congress recognizes that—

"(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

Improving
America's
Schools Act of
1994. Inter-
governmental
relations.
20 USC 6301
note.

20 USC 6301
note.

20 USC 1221
note.

"(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

"(3) educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services;

"(4) while title I and other programs funded under this Act contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

"(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 102(3) of the Goals 2000: Educate America Act, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

"(c) **WHAT HAS BEEN LEARNED SINCE 1988.**—To enable schools to provide all children a high-quality education, this title builds upon the following learned information:

"(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

"(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

"(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

"(4) Resources are more effective when resources are used to ensure that children have full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

"(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

"(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role technology can play in professional development and improved teaching and learning.

"(7) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.

"(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.

"(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

"(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.

"(11) Resources provided under this title can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

"(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

"(d) **STATEMENT OF PURPOSE.**—The purpose of this title is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

"(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

"(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

"(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

"(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

"(5) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

"(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

"(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

"(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this title are achieving challenging State student performance standards expected of all children; and

"(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

20 USC 6302.

"SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

"(a) **LOCAL EDUCATIONAL AGENCY GRANTS.**—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated \$7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) **EVEN START.**—For the purpose of carrying out part B, there are authorized to be appropriated \$118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(c) **EDUCATION OF MIGRATORY CHILDREN.**—For the purpose of carrying out part C, there are authorized to be appropriated \$310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) **PREVENTION AND INTERVENTION PROGRAMS FOR YOUNG WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.**—For the purpose of carrying out part D, there are authorized to be appropriated \$40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) **CAPITAL EXPENSES.**—For the purpose of carrying out section 1120(e), there are authorized to be appropriated \$41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) **ADDITIONAL ASSISTANCE FOR SCHOOL IMPROVEMENT.**—For the purpose of providing additional needed assistance to carry out sections 1116 and 1117, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

"(g) FEDERAL ACTIVITIES.—

"(1) **SECTION 1501.**—For the purpose of carrying out section 1501, there are authorized to be appropriated \$9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) **SECTIONS 1502 AND 1503.**—For the purpose of carrying out sections 1502 and 1503, there are authorized to be appropriated \$50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

20 USC 6303.

"SEC. 1003. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.**"(a) PAYMENT FOR SCHOOL IMPROVEMENT.—**

"(1) **IN GENERAL.**—Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 1116 and section 1117, one-half of 1 percent of the funds allocated to the State under subsections (a), (c), and (d), of section 1002 for fiscal year 1995 and each succeeding fiscal year.

"(2) **MINIMUM.**—The total amount that may be reserved by each State, other than the outlying areas, under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated to the State under subsection (b), if any, may not be less than \$200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated under subsection (b) to the outlying area, if any, may not be less than \$25,000.

"(3) **SPECIAL RULE.**—If the amount reserved under paragraph (1) when added to the amount made available under section 1002(f) for a State is less than \$200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 1002 as are necessary to make \$200,000 available to such State.

"(b) **ADDITIONAL STATE ALLOCATIONS FOR SCHOOL IMPROVEMENT.**—From the amount appropriated under section 1002(f) for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 1120(e)) bears to the total amount allocated to all States under this part (other than section 1120(e)).

"PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES**"Subpart 1—Basic Program Requirements****"SEC. 1111. STATE PLANS.**

20 USC 6311.

"(a) PLANS REQUIRED.—

"(1) **IN GENERAL.**—Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with section 14306.

Grants.

"(2) **CONSOLIDATION PLAN.**—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 14302.

"(b) STANDARDS AND ASSESSMENTS.—

"(1) **CHALLENGING STANDARDS.**—(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

"(B) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

"(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which

standards shall include the same knowledge, skills, and levels of performance expected of all children.

"(D) Standards under this paragraph shall include—

"(i) challenging content standards in academic subjects that—

"(I) specify what children are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

"(III) encourage the teaching of advanced skills;

"(ii) challenging student performance standards that—

"(I) are aligned with the State's content standards;

"(II) describe two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

"(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

"(E) For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed such standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

"(2) YEARLY PROGRESS.—

"(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

"(i) any school served under this part toward enabling children to meet the State's student performance standards; and

"(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

"(B) Adequate yearly progress shall be defined in a manner—

"(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

"(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

"(3) ASSESSMENTS.—Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of

each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

"(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

"(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

"(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

"(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

"(F) provide for—

"(i) the participation in such assessments of all students;

"(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

"(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English;

"(G) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, however the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

"(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

"(I) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

"(4) SPECIAL RULE.—Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one

of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

"(5) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

"(6) STANDARD AND ASSESSMENT DEVELOPMENT.—(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994.

"(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language arts shall develop and test such assessments within four years (one year of which shall be used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994 and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

"(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

"(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

"(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an extension under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

"(7) TRANSITIONAL ASSESSMENTS.—(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly

statewide assessments that will assess the performance of complex skills and challenging subject matter.

"(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 1116(d), and schools under paragraphs (1) and (7) of section 1116(c), that rely on accurate information about the academic progress of each such local educational agency and school.

"(8) REQUIREMENT.—Each State plan shall describe—

"(A) how the State educational agency will help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school; and

"(B) such other factors the State deems appropriate (which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act) to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

"(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

"(1)(A) the State educational agency will implement a system of school support teams under section 1117(c), including provision of necessary professional development for those teams;

"(B) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 1119 and technical assistance under section 1117; and

"(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

"(ii) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

"(2) the State educational agency will notify local educational agencies and the public of the standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

"(3) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

"(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

"(5) the Committee of Practitioners established under section 1603(b) will be substantially involved in the development

of the plan and will continue to be involved in monitoring the plan's implementation by the State; and

"(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate.

"(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

"(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

"(C) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (a), (b), and (c);

"(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

"(E) not decline to approve a State's plan before—

"(i) offering the State an opportunity to revise its plan;

"(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

"(iii) providing a hearing; and

"(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

"(2) WITHHOLDING.—The Secretary may withhold funds for State administration and activities under section 1117 until the Secretary determines that the State plan meets the requirements of this section.

"(e) DURATION OF THE PLAN.—

"(1) IN GENERAL.—Each State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(2) ADDITIONAL INFORMATION.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

"(f) LIMITATION ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, opportunity-to-learn standards or strategies, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

"(g) PROHIBITION.—Nothing in this Act shall be construed to require any State educational agency, local educational agency, or school, to implement opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(h) SPECIAL RULE.—If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) PLANS REQUIRED.—

"(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

"(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 14304.

"(b) PLAN PROVISIONS.—Each local educational agency plan shall include—

"(1) a description of additional high-quality student assessments, if any, other than the assessments described in the State plan under section 1111, that the local educational agency and schools served under this part will use to—

"(A) determine the success of children served under this part in meeting the State's student performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111(b)(1)(D)(ii);

"(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

"(C) determine what revisions are needed to projects under this part so that such children will meet the State's student performance standards;

"(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

"(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, where appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 1119;

"(4) a description of how the local educational agency will coordinate and integrate services provided under this part with

other educational services at the local educational agency or individual school level, such as—

“(A) Even Start, Head Start, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

“(B) services for children with limited English proficiency or with disabilities, migratory children served under part C or who were formerly eligible for services under part C in the two-year period preceding the date of the enactment of the Improving America's School Act of 1994, neglected or delinquent youth and youth at risk of dropping out served under part D, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

“(5) a description of the poverty criteria that will be used to select school attendance areas under section 1113;

“(6) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;

“(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

“(8) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

“(9) where appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, agencies operating Even Start programs, or another comparable public early childhood development program.

“(c) ASSURANCES.—

“(1) IN GENERAL.—Each local educational agency plan shall provide assurances that the local educational agency will—

“(A) inform eligible schools and parents of schoolwide project authority;

“(B) provide technical assistance and support to schoolwide programs;

“(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting

the State content standards and State student performance standards;

“(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(4);

“(E) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

“(F) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

“(G) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part; and

“(H) beginning in fiscal year 1997 and in the case that a local educational agency chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

“(2) SPECIAL RULE.—In carrying out subparagraph (H) of paragraph (1) the Secretary—

“(A) in fiscal year 1995, shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

“(B) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 641A(a) of the Head Start Act, and such agencies effected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

“(3) INAPPLICABILITY.—The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

“(d) PLAN DEVELOPMENT AND DURATION.—Each local educational agency plan shall—

“(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

“(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

"(e) STATE APPROVAL.—

"(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after the date of enactment of the Improving America's Schools Act of 1994 to have such plan provisionally approved by the State educational agency and not more than two years after the date of enactment of such Act to have such plan finally approved by the State educational agency.

"(2) APPROVAL.—The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 1111(b)(1).

"(3) REVIEW.—The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 1119.

"(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

20 USC 6313.

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

"(a) DETERMINATION.—

"(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

"(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

"(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

"(B) the term 'eligible school attendance area' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

"(3) RANKING ORDER.—If funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

"(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order.

"(4) REMAINING FUNDS.—If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

"(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

"(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act, the number of children in families receiving assistance under the Aid to Families with Dependent Children program, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

"(B) to determine the ranking of each area; and

"(C) to determine allocations under subsection (c).

"(6) EXCEPTION.—This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

"(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

"(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

"(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency; and

"(C) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

"(i) the school meets the comparability requirements of section 1120A(c);

"(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

"(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1)(C), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under paragraph (1).

"(c) ALLOCATIONS.—

"(1) IN GENERAL.—A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsection (a) or (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

"(2) SPECIAL RULE.—(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

"(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(3) RESERVATION.—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

"(A) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

"(B) children in local institutions for neglected or delinquent children; and

"(C) where appropriate, neglected and delinquent children in community day school programs.

"SEC. 1114. SCHOOLWIDE PROGRAMS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

"(1) IN GENERAL.—A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

"(A) For the school year 1995–1996—

"(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

"(ii) not less than 60 percent of the children enrolled in the school are from such families.

"(B) For the school year 1996–1997 and subsequent years—

"(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

"(ii) not less than 50 percent of the children enrolled in the school are from such families.

"(2) STATE ASSURANCES.—(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 1117.

"(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections (c)(1) and (e) of section 1117 shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

"(3) IDENTIFICATION.—(A) No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

"(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

"(4) SPECIAL RULE.—(A) Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act), to support schoolwide programs, if the intent and purposes of such other programs are met.

"(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal

funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

"(5) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

"(1) IN GENERAL.—A schoolwide program shall include the following components:

"(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 1111(b)(1).

"(B) Schoolwide reform strategies that—

"(i) provide opportunities for all children to meet the State's proficient and advanced levels of student performance described in section 1111(b)(1)(D);

"(ii) are based on effective means of improving the achievement of children;

"(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

"(I) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

"(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

"(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

"(aa) counseling, pupil services, and mentoring services;

"(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

"(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

"(dd) incorporation of gender-equitable methods and practices; and

"(II) address how the school will determine if such needs have been met; and

"(vii) are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act.

"(C) Instruction by highly qualified professional staff.

"(D) In accordance with section 1119 and subsection (a)(5), professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

"(E) Strategies to increase parental involvement, such as family literary services.

"(F) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs.

"(G) Measures to include teachers in the decisions regarding the use of assessments described in section 1112(b)(1) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

"(H) Activities to ensure that students who experience difficulty mastering any of the standards required by section 1111(b) during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

"(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

"(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

"(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

"(I) what the school will do to help the student meet such standards;

"(II) what the parents can do to help the student improve the student's performance; and

"(III) additional assistance which may be available to the student at the school or elsewhere in the community.

"(2) PLAN.—(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before the date of enactment of the Improving America's Schools Act of 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 1117, a comprehensive plan for reforming the total instructional program in the school that—

"(i) incorporates the components described in paragraph (1);